

Message Text

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USMISSION USBERLIN
INFO AMEMBASSY BERLIN
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AMEMBASSY PARIS
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C O N F I D E N T I A L SECTION 01 OF 03 BONN 13415

E.O. 11652: XGDS-1
TAGS: PGOV, BQG
SUBJECT: ARMING OF INDIVIDUALS AND PRIVATE GUARDS
IN BERLIN

REFS: (A) USBER 1711
(B) 77 BONN 21286

BEGIN SUMMARY. THE EMBASSY'S VIEW IS THAT WE SHOULD
NOT DELAY ALLIED AGREEMENT ON PROVIDING ARMS TO
JUDGES AND PROSECUTORS, IF SUCH AGREEMENT CAN BE
REACHED, IN ORDER TO SOLVE THE PROBLEM OF COURT-

APPOINTED COUNSEL AND THE SPRINGER BODYGUARD PROBLEM.
THE FRENCH AND BRITISH HERE HAVE NOT YET RECEIVED
REPORTS OF THE MOST RECENT DISCUSSIONS IN BERLIN
BUT THE FRENCH BONN GROUP REP, WHILE HE ADMITS THERE
MAY REPEAT MAY NOT BE A "LEGAL" PROBLEM, HAS
EXPRESSED COHERENTLY THE QUAI'S OTHER OBJECTIONS TO
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EXPANDING THE CATEGORY OF PERSONS WHO MAY CARRY ARMS
IN BERLIN. END SUMMARY

1. IT APPEARS TO US THAT THERE ARE TWO DESIRABLE
ELEMENTS IN ANY PLAN FOR PERMITTING THE ARMING IN
BERLIN OF PERSONS WHO ARE NOT NOW IN PRACTICE
PERMITTED TO CARRY ARMS:
A) THAT WE BE AS RESPONSIVE AS WE CAN, CONSISTENT

WITH QUADRIpartite LEGISLATION, TO REQUESTS BY PERSONS WHO ARE IN FACT IN DANGER.

B) THAT THE DIVIDING LINE BETWEEN THOSE WHO ARE PERMITTED TO CARRY ARMS AND THOSE WHO ARE NOT BE AS CLEAR AND DEFENSIBLE AS POSSIBLE.

2. IT IS TAKEN AS A GIVEN FACT THAT PURELY PRIVATE

PERSONS WITHOUT SOME OFFICIAL POSITION ARE PROHIBITED FROM CARRYING ARMS FOR PERSONAL PROTECTION IN BERLIN. THIS LINE IS CLEAR BECAUSE QUADRIpartite LEGISLATION IN FORCE DOES NOT PERMIT THEM TO DO SO. WITHIN THE CATEGORY OF PERSONS THAT CAN BE REGARDED AS "LOCAL AUTHORITIES" OR "POLICE" (ALLIED ORDER NO. 2), WE AGREE WITH USBER THAT THE MISSIONS WILL HAVE TO DECIDE THAT SOME PERSONS IN THIS CATEGORY ARE SUFFICIENTLY ENDANGERED TO JUSTIFY THEIR CARRYING ARMS WHILE OTHERS ARE NOT. THIS LINE IS ALSO CLEAR, ALTHOUGH IT DEPENDS ON THE MISSIONS' JUDGMENT.

3. AS TO THOSE PERSONS WHO ARE, IN THE MISSIONS' JUDGMENT, SUFFICIENTLY ENDANGERED AND ARE "LOCAL AUTHORITIES" OR "POLICE," THE EMBASSY'S VIEW IS THAT ALL OF THEM SHOULD BE PERMITTED TO CARRY ARMS. THIS INCLUDES THE JUDGES, PROSECUTORS, COURT-APPOINTED CONFIDENTIAL

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DEFENSE COUNSEL AND THE SPRINGER BODYGUARDS (PROVIDED THE LATTER TWO CATEGORIES ARE DEEMED TO BE "LOCAL

AUTHORITIES" OR "POLICE").

4. THE PROBLEM DESCRIBED BY USBER IS THAT THE FRENCH AND BRITISH IN BERLIN MAY NOT AGREE WITH US REGARDING THE LATTER TWO CATEGORIES. THE POSITION OF THE FRENCH AND BRITISH EMBASSIES IN BONN IS NOT ENTIRELY CONSISTENT WITH THE POSITIONS TAKEN BY THEIR REPRESENTATIVES IN BERLIN. THE BRITISH HERE APPEAR TO FAVOR ARMING ALL FOUR OF THE CATEGORIES MENTIONED ABOVE, PROVIDED THIS IS CONSISTENT WITH QUADRIpartite LEGISLATION. THE FRENCH ARE MORE RETICENT, BUT MAY BE CONVINCED BY THE VIEW OF THE FRENCH LEGAL ADVISER IN BERLIN.

5. IN RESPONSE TO THE TWO QUESTIONS IN PARAGRAPH 10 OF REF A, WE HAVE THE FOLLOWING COMMENTS:

A) PROSPECTS FOR MOVING AHEAD WITH SOME FORM OF ARMING PACKAGE: IF THE FRENCH HERE AND IN PARIS COME TO SHARE THE VIEW OF THE FRENCH LEGAL ADVISER

IN BERLIN, WE ASSUME THAT WE CAN MOVE FORWARD INSO-

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FAR AS THERE IS COMMON AGREEMENT (I.E. FOR JUDGES
AND PROSECUTORS).

B) SEPARATING OUT THE "SPRINGER PROBLEM":
THE LAST FULL TRIPARTITE DISCUSSION OF THIS QUESTION
WAS IN DECEMBER, 1977 (REF B). AT THAT TIME, ALL
THREE REPS AGREED TO SUGGEST TO THE ALLIED MISSIONS
IN BERLIN THE IDEA OF TURNING THE BODYGUARDS INTO
POLICE BY REQUIRING THEM TO JOIN THE FREIWILLIGE
POLIZEI RESERVE (FPR). HOWEVER, IF IT IS NECESSARY
TO SEPARATE THE "SPRINGER PROBLEM" FROM THE QUESTION
OF JUDGES AND PROSECUTORS, WE ASSUME THAT THIS CAN
BE DONE.

6. WHILE WE AGREE WITH USBER'S CONCERN ABOUT A
"MINIMALIST" APPROACH, IT APPEARS TO US THAT THE
LINE BETWEEN THE JUDGES AND PROSECUTORS ON THE ONE
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HAND AND THE SPRINGER BODYGUARDS ON THE OTHER IS A CLEAR ONE--THE LATTER ARE NEITHER "POLICE" NOR "LOCAL AUTHORITIES." THE LINE BETWEEN JUDGES AND PROSECUTORS AND COURT-APPOINTED COUNSEL APPEARS, FROM REF A,

TO BE LESS CLEAR. WE UNDERSTAND FROM REF A THAT THE QUESTION WHETHER SUCH COUNSEL CAN BE REGARDED AS POLICE OR LOCAL AUTHORITIES HAS YET TO BE RESOLVED.

7. WE DO NOT BELIEVE, HOWEVER, THAT WE SHOULD DELAY SEEKING AGREEMENT ON ARMS FOR JUDGES AND PROSECUTORS UNTIL THE QUESTION OF COURT-APPOINTED COUNSEL AND THE SPRINGER BODYGUARDS IS RESOLVED, ALTHOUGH WE SHOULD MAKE IT CLEAR TO THE BRITISH AND FRENCH THAT THIS LATTER QUESTION HAS ALSO TO BE RESOLVED. THE FRG (AND SENAT) PRESSURE IS FOCUSED PRIMARILY ON THE QUESTION OF JUDGES AND PROSECUTORS AND THE LEGAL DISTINCTIONS BETWEEN THESE AND THE OTHER TWO CATEGORIES CAN BE CITED IN RESPONSE TO REQUESTS THAT THE LATTER TWO CATEGORIES SHOULD BE PERMITTED TO CARRY ARMS.

8. THE SUBJECT WAS DISCUSSED BRIEFLY AT A TRIPARTITE MEETING OF ALLIED BONN GROUP REPS ON JULY 20. THE FRENCH AND BRITISH HERE HAVE NOT YET RECEIVED REPORTS OF THE DISCUSSIONS IN BERLIN ALTHOUGH THE UK LEGAL

ADVISER (EATON) WAS SOMEWHAT AWARE OF THEM FROM HAVING BEEN IN BERLIN EARLIER THIS WEEK. THE DISCUSSION WAS INCONCLUSIVE AND IT WAS AGREED TO RETURN TO THE MATTER WHEN ALL ALLIED REPS ARE AWARE OF WHAT WAS DISCUSSED IN BERLIN.

9. THE FRENCH REP (RICHARD), AFTER THE US REP
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DESCRIBED THE DISCUSSIONS IN BERLIN, SAID THAT WHILE THERE MAY NOT BE A "LEGAL" OBJECTION TO THE PROPOSAL TO PERMIT JUDGES AND PROSECUTORS TO CARRY ARMS, THE QUAI HAD EXPRESSED (FOLLOWING THE US DEMARCHE IN WASHINGTON) THE FOLLOWING OTHER OBJECTIONS TO THE PROPOSAL:

A) IT WOULD BE A REINTERPRETATION OF QUADRIPARTITE LEGISLATION, A CHANGE FROM THE CONSISTENT INTERPRETATION THE ALLIES HAD FOLLOWED FOR MANY YEARS.

B) STOBBE HAS NOT PRESSED FOR THE CHANGE.

C) AS A PRACTICAL MATTER, THE VIEW OF THE

EXPERTS IS THAT THE PROPOSAL WOULD NOT GIVE THE JUDGES
AND PROSECUTORS ADDITIONAL PROTECTION.

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D) THIS IS NOT A NEW PROBLEM. THE GERMANS HAVE
RAISED IT REPEATEDLY SINCE NOVEMBER, 1974 OR
THEREABOUTS AND EACH TIME THE ALLIES HAVE REFUSED
THE REQUEST.

E) IN VIEW OF THE PUBLICITY ABOUT THE REQUEST
BEING IN THE INTEREST OF "RECHTSEINHEIT" AND REVISING
OUTMODED QUADRIpartite LEGISLATION, THIS
CAUSES POLITICAL PROBLEMS SINCE IT WOULD APPEAR
THAT THE ALLIES ARE GIVING IN TO A CAMPAIGN "PROVOCA-
TIVE" TO THE ALLIES. HE SAID THIS MAY BE LESS
OF A PROBLEM NOW THAT SENATOR FOR JUSTICE BAUMANN
IS NO LONGER IN OFFICE.

F) THE ALLIES WOULD BE COMPELLED TO GIVE ARMS
TO ALL PERSONS IN THE MOST ENDANGERED GROUP, WHICH
HE ESTIMATED AS BEING 70-80 PEOPLE IN BERLIN.

G) THE FREIWILLIGE POLIZEI RESERVE IS NOT A
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SOLUTION TO THE SPRINGER PROBLEM; SUCH POLICE CANNOT
CARRY WEAPONS ALL OF THE TIME.

10. THE US REP ANSWERED EACH OF RICHARD'S ARGUMENTS,

EXCEPT FOR THE LAST ONE, IN FAMILIAR TERMS. TO
THE LAST ONE, THE UK LEGAL ADVISER (EATON) REJOINED
THAT A BETTER SOLUTION THAN THE USE OF THE FWP
WOULD BE TO AMEND THE BK/O ON MONEY TRANSPORTERS.

11. WE WILL REPORT TRIPARTITE DISCUSSIONS MORE FULLY
AFTER THE NEXT MEETING ON THIS SUBJECT, AT WHICH TIME
WE HOPE TO HAVE A BETTER IDEA ABOUT HOW MUCH THE
FRENCH ARE PREPARED TO ACCEPT. STOESSEL

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